



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 29, 1996

Ms. Detra Hill
Assistant City Attorney
Supervisor, Criminal and Police Division
City of Dallas
City Hall
Dallas, Texas 75201

OR96-0625

Dear Ms. Hill:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 33012.

The City of Dallas (the "city") received a request for the personnel file of a former law enforcement officer who was employed by the city's police department, and any documents pertaining to his departure from that department. You inform us that the city has released to the requestor all of the information requested except for two memos. Your sole contention is that the information contained in these two memos is excepted from disclosure by section 552.102 of the Government Code due to the highly personal nature of the information. You have enclosed the memos at issue for our review.

Section 552.102(a) of the Government Code provides that information is excepted from required public disclosure

if it is information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, except that all information in the personnel file of an employee of a governmental body is to be made available to that employee or the employee's designated representative as public information is made available.¹

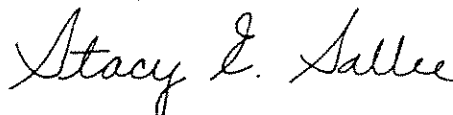
¹We note that section 552.102 of the Government Code was amended in the last legislative session. Act of May 29, 1995, 74th Leg., R.S., ch. 1035, § 6, 1995 Tex. Sess. Law Serv. 5127, 5130 (Vernon). However, this amendment applies only to requests received after September 1, 1995. *Id.* § 26, 1995 Tex. Sess. Law Serv. at 5154. As this request was received before September 1, 1995, we apply the prior law here. We do not address in this ruling the effect of the amendment on requests received after September 1, 1995.

Section 552.102 protects information only if its release would cause an invasion of privacy under the test articulated for section 552.101 of the Government Code by the Texas Supreme Court in *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). See *Hubert v. Harte-Hanks Tex. Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.). Under the *Industrial Foundation* case, information may be withheld on common-law privacy grounds only if it is highly intimate or embarrassing and is of no legitimate concern to the public. Information previously held by this office not to be protected by common-law privacy interests includes, for example, applicants' and employees' educational training, names and addresses of former employers, dates of employment, kind of work, salary, and reasons for leaving, names, occupations, addresses and phone numbers of character references, job performance or ability, birth dates, height, weight, marital status, and social security numbers. See Open Records Decision No. 455 (1987); see also Open Records Decision Nos. 470 (1987), 467 (1987), 444 (1986), 421 (1984), 405 (1983).

We have examined the information submitted to us for review. We conclude that there is a legitimate public interest in this information. Although the information includes the authors' opinions about a former officer's psychological condition and their recommendations about what should occur regarding this officer if he seeks reemployment, the information relates to the termination or resignation of the officer. We therefore conclude that there is a legitimate public interest in this information and that it may not be withheld from public disclosure under section 552.102.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref.: ID# 33012

Enclosures: Submitted documents

cc: Mr. Steve Miller
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(w/o enclosures)